

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

# IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO  
01-CV-12257-PBS AND 01-CV-339

Judge Patti B. Saris

**DECLARATION OF STEVE W. BERMAN IN SUPPORT OF PLAINTIFFS' MOTION  
TO COMPEL THE PRODUCTION OF DOCUMENTS CREATED DURING THE  
RELEVANT TIME PERIOD FROM DEFENDANTS ABBOTT LABORATORIES,  
ASTRAZENECA, SCHERING PLOUGH, SICOR AND TOGETHER Rx DEFENDANTS**

I, Steve W. Berman, hereby declare that:

1. I am an attorney at law, licensed to practice in the State of Washington and admitted *pro hac vice* in this case. I am a member of Hagens Berman LLP, resident in its Seattle, Washington, office and am Co-Lead Counsel for the Plaintiffs in the above-captioned action.

2. This declaration is submitted in support of Plaintiffs' Motion to Compel the Production of Documents Created during the Relevant Time Period from Defendants Abbott Laboratories, AstraZeneca, Schering Plough, Sicor and Together Rx.

3. Various members of our Co-Lead Counsel team have held meet and confers with defendants Abbott, AstraZeneca, Schering, and Sicor. Each of these defendants has confirmed that it will not produce documents and information created prior to 1997 or after September, 2002.

## DECLARATION OF STEVE W. BERMAN

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4. Plaintiffs' requests to the Together Rx defendants define the relevant time period as January 1, 2001 to the date of production. In meet confers held with each Together Rx defendant (excluding Aventis), these defendants have refused to produce documents created after June 12, 2003, the date on which plaintiffs filed for leave to file the AMCC.

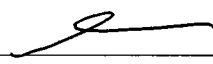
5. Notwithstanding this position, defendants have themselves sought the production of documents created in these time periods. In response to defendants' requests, plaintiffs have produced documents and data extending back to the early '90s and continue to search for relevant documents from this era.

Further the declarant sayeth not. I certify under penalty of perjury that the foregoing is true and correct. Executed this the 3<sup>rd</sup> day of May, 2004, at Seattle, Washington.

  
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STEVE W. BERMAN

**CERTIFICATE OF SERVICE**

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing DECLARATION OF STEVE W. BERMAN IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS CREATED DURING THE RELEVANT TIME PERIOD FROM DEFENDANTS ABBOTT LABORATORIES, ASTRAZENECA, SCHERING PLOUGH, SICOR AND TOGETHER Rx DEFENDANTS to be served on all counsel of record electronically on May 3, 2004, pursuant to Section D of Case Management Order No. 2.

  
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Steve W. Berman  
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